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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,408	08/31/2000	Jean-Charles Mercier	Q60439	5345

7590

11/29/2002

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EXAMINER

GONZALEZ, JULIO C

ART UNIT PAPER NUMBER

2834

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/653,408

Applicant(s)

MERCIER ET AL.

Examiner

Julio C. Gonzalez

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable under Carter, Jr. et al in view of Mukai.

Carter, Jr. et al discloses a wind-power generator pod 18 constituted by a rigid fairing (see figures 1 and 2) in which a generator 34 is disposed coupled to a propeller 14 and an a stator and rotor are mounted. Also, the generator 34 is coupled to a gearbox 36.

However, Carter does not disclose having part of the stator contacting a fairing.

On the other hand, Mukai discloses for the purpose of effectively cooling down a stator coil, a stator core 31 contacting the fairing of a generator (see figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a wind generator as disclosed by Carter and to

modify the invention by having the stator contact a wall of the fairing for the purpose of effectively cooling down a stator coil as disclosed by Mukai.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter Jr., and Mukai as applied to claim 1 above, and further in view of Rao.

The combined wind generator discloses all of the elements above. However, the combined wind generator does not disclose that the rigid fairing is attached to the stator via an interference fit.

On the other hand, Rao discloses for the purpose of increasing the efficiency of the generator assembly by keeping the generator laminations firmly in place during generator operation, a stator 15, which is assembled into the housing 13 with an interference fit (column 4, lines 30-31 & see figure 2).

It would have been obvious to one having ordinary skill in the art to design the combined wind generator as disclosed above and to make an interference fit between the stator and the housing for the purpose of increasing the efficiency of the generator assembly by keeping the generator laminations firmly in place during generator operation as disclosed by Rao.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter, Jr. and Mukai as applied to claim 1 above, and further in view of Hirose.

The combined wind generator discloses all of the elements above. However, the combined wind generator does not disclose a lateral opening on the stator.

On the other hand, Hirose discloses for the purpose of cooling efficiently a generator that the generator disposes lateral openings right through the stator (see abstract and claim 1).

It would have been obvious to one having ordinary skill in the art to design the combined wind generator as disclosed above and to make lateral opening in the stator for the purpose of cooling efficiently a generator as disclosed by Hirose.

5. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Carter, Jr. and Mukai as applied to claim 1 above, and further in view of Benoit.

The combined wind generator discloses all of the elements above. However, the combined wind generator does not disclose a tubular sleeve around the pod.

On the other hand Benoit discloses for the purpose of taking advantage of high wind speeds thus improving efficiency of the wind power generator that the pod 58 is surrounded by a tubular sleeve forming an annular air passage along the pod (see figures 2 and 3).

It would have been obvious to one having ordinary skill in the art to design the combined wind generator as disclosed above and to make a tubular sleeve surround the pod for the purpose of taking advantage of high wind speeds thus improving efficiency of the wind power generator as disclosed by Benoit.

***Response to Arguments***

6. Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 09/24/02 have been fully considered but they are not persuasive.

From the claims, it is disclosed that the stator contacts the outer structure of the pod, which is the body that holds the generator. Carter, Jr. discloses a device for a wind power generator. From figure 2, shown in the prior art of Carter, Jr. et al, the housing has a smooth outline, in which a generator and gears are inside the pod/fairing. Mukai shows a structure of a generator, which clearly shows advantages for placing the stator contacting the outer structure of the generators, which is to effectively cool down the stator coil. Anyone with ordinary skill in the field of generators would know that the stator would be cooled off. Moreover, no

physical structure is given in the claims as to defined clearly how the fairing is or what purpose is been used. The claim only discloses that a fairing contacts a stator and forms part of a generator. Moreover, the fairing itself has not been defined. From the claims and the drawing, it would seem like if the fairing serves only for housing purposes.

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Carter, Jr. et al discloses a wind generator and Mukai discloses an improvement to a generator by contacting the stator to the structure/housing of the generator.

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., fairing, an element that reduces wind drag) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

#### Conclusion

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



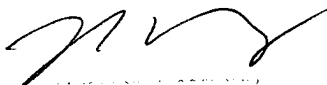
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

November 25, 2002

  
JULIO C. GONZALEZ  
Examiner  
Art Unit 2834